

Message Text

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O P 171821Z AUG 77
FM AMEMBASSY BONN
TO SECSTATE WASHDC IMMEDIATE 0728
AMEMBASSY PARIS PRIORITY
INFO USMISSION USBERLIN
AMEMBASSY BERLIN
AMEMBASSY MOSCOW
AMEMBASSY LONDON
USMISSION NATO

C O N F I D E N T I A L SECTION 01 OF 03 BONN 13456

DEPARTMENT PLEASE NOTIFY EUR/CE ON RECEIPT

E.O. 11652: GDS
TAGS: PGOV BQG
SUBJECT: LORENZ CASE -- POSSIBLE RESOLUTION OF
DIFFERENCES

REFS: (A) PARIS 23703; (B) PARIS 23668; (C) BONN 13388;
(D) STATE 192533; (E) BONN 13242; (F) BONN 13241;
(G) BONN 13009

BEGIN SUMMARY: EMBASSY PARIS' EDUCATIONAL EFFORTS WITH
PLAISANT ARE APPARENTLY BEARING FRUIT, AND WE MAY BE
NEARING AGREEMENT WITH THE FRENCH REGARDING THE LORENZ
TRIAL. PARIS HAS NOW "RELUCTANTLY" AGREED TO SETTLE FOR
THE FOUR STEPS PROPOSED BY THE UK AND AGREES THAT
OBERLE NEED BE THE LEADER OF THE PROSECUTION TEAM ONLY
IN A FORMAL SENSE. WHILE THERE IS NO FIRM FRG ANSWER
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TO THIS PROPOSAL, THE FRG REP THOUGHT IT WOULD BE
POSSIBLE. THE FRG WILL ALSO CONSIDER WHETHER OBERLE
MIGHT BE GIVEN A ROLE IN THE PROCEEDINGS WHICH WILL
REFLECT THIS STATUS AS FORMAL HEAD. IF THIS CAN BE
ACCOMPLISHED TO FRENCH SATISFACTION, THE FRENCH REP TO
THE BONN GROUP BELIEVES THAT PARIS WILL AGREE TO THE
ALLIED AND FRG PRESS STATEMENTS AS NOW DRAFTED. ACTION

REQUESTED: APPROVAL OF PROPOSED FRG PRESS STATEMENT.
END SUMMARY.

1. FRENCH REP (RICHARD) INFORMED TODAY'S BONN GROUP MEETING THAT THE GOF IS, AND HE STRESSED THE WORD, "RELUCTANTLY" PREPARED TO ACCEPT THE STEPS RECOMMENDED BY THE UK (REF G) AS A BASIS FOR HOLDING THE LORENZ TRIAL IN BERLIN, PROVIDED THAT ALL OF THEM ARE ACCEPTED BY THE FRG. HE MENTIONED THE FRENCH PROPOSAL REGARDING SECURITY MEASURES ONLY IN PASSING. RICHARD SAID THAT THE FIRST OF THE FOUR SUGGESTIONS, THAT OBERLE AND HIS DEPUTY LEAD THE PROSECUTING TEAM, IS VERY IMPORTANT TO THE FRENCH. HE EMPHASIZED THAT THIS IS "THE LIMIT" OF WHAT THE FRENCH CAN ACCEPT AND THAT IF THE FRG CANNOT COMPLY, THE GOF WOULD RECONSIDER ITS CONSENT, GIVEN LAST YEAR, TO HOLDING THE TRIAL IN BERLIN. HE UNDERSTOOD THAT THERE WERE PRACTICAL REASONS WHY OBERLE COULD NOT HEAD THE PROSECUTION IN FACT AND ASKED WHETHER THERE MIGHT ALSO BE LEGAL COMPLICATIONS IF HE WERE MERELY THE "FORMAL" HEAD.

2. FRG REP (VON BRAUNMUEHL) SAID THAT THERE WERE NO LEGAL REASONS WHY OBERLE COULD NOT HEAD THE PROSECUTION TEAM IN FACT BUT THERE WERE PRACTICAL REASONS. THERE MAY BE LEGAL REASONS WHY OBERLE CANNOT BE MADE THE APPARENT HEAD BUT HE WOULD INQUIRE AND REPORT BACK.
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3. THE US REP REPORTED ON HIS INSTRUCTIONS (REF D), SAYING THAT WHILE WE DO NOT SEEK TO DIRECT THE FRG AS TO HOW THE TRIAL IS CONDUCTED, WE WOULD WELCOME A STEP WHICH WOULD MAKE OBERLE THE FORMAL HEAD AND THAT, IF THIS WERE NOT POSSIBLE, WE ASSUMED THAT THE FRG WOULD

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NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 IO-13
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O P 171821Z AUG 77
FM AMEMBASSY BONN
TO SECSTATE WASHDC IMMEDIATE 0729
AMEMBASSY PARIS PRIORITY
INFO USMISSION USBERLIN
AMEMBASSY BERLIN
AMEMBASSY MOSCOW
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HAVE GOOD REASONS IT COULD GIVE FOR ITS DECISION. THE
UK REP SAID THAT LONDON BELIEVES THE ESSENTIAL REQUIRE-
MENT PUT FORTH BY THE ALLIES, TO SHOW THAT THERE IS A
SATISFACTORY BASIS IN BERLIN LAW FOR THE DETAIL OF THE
KARLSRUHE LAWYERS TO THE BERLIN OFFICE, WOULD BE
SATISFIED BY THE PRESS STATEMENT PROPOSED TO BE
ISSUED BY THE ALLIES AND THE FRG.

4. IN A DISCUSSION OF THE DRAFT FRG PRESS STATEMENT
(REF F), RICHARD SAID THAT THE FRENCH WANT OBERLE
DESCRIBED AS LEADING THE PROSECUTION BUT CAN ACCEPT THAT
THE THREE KARLSRUHE LAWYERS BE MENTIONED. RICHARD
SUGGESTED THAT THE FIRST SENTENCE OF THE SECOND PARA-
GRAPH OF THE DRAFT FRG PRESS STATEMENT READ AS FOLLOWS:

"THE PROSECUTION WILL BE UNDER THE DIRECTION OF THE
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HEAD OF THE BERLIN OFFICE, BUNDESANWALT OBERLE,
WHO WILL BE ASSISTED BY FIRST OBERSTAATSANWALT
VOELZ, OBERSTAATSANWALT WIDERA AND STAATSANWALT
JAECKEL, WHO, EFFECTIVE AS OF JULY 7, 1977, HAVE
BEEN ATTACHED TO THE BERLIN OFFICE OF THE FEDERAL
PROSECUTOR."

OTHERWISE, THE STATEMENT WOULD REMAIN UNCHANGED. ALL
FOUR REPS AGREED TO RECOMMEND THIS AS AN AD REF TEXT.

5. VON BRAUNMUEHL ASKED RICHARD WHETHER THIS WOULD
SATISFY THE FRENCH REQUIREMENT THAT OBERLE BE
MADE THE HEAD OF THE PROSECUTION TEAM AND RICHARD

REPLIED THAT PARIS WOULD PROBABLY ALSO LIKE TO HAVE OBERLE APPEAR IN THE TRIAL IN SOME (UNSPECIFIED) MANNER SO AS TO GIVE CREDENCE TO THE PRESS STATEMENT. HE SAID THAT HIS INSTRUCTIONS LITERALLY READ THAT IT IS ONLY NECESSARY THAT OBERLE BE THE "FORMAL" HEAD OF THE PROSECUTION TEAM AND THAT WHILE HE WOULD NOT EXCLUDE THE PUBLIC STATEMENT AS BEING ADEQUATE, HE WOULD ASK FOR AN INTERPRETATION FROM PARIS. RICHARD LATER RECEIVED A TELEPHONE CALL FROM PLAISANT AND RAISED THE POINT. PLAISANT SAID THAT THERE SHOULD BE "SOME REFLECTION" OF OBERLE'S ROLE IN THE ACTUAL PROCEEDINGS.

6. IN A CONSIDERATION OF WHAT MIGHT BE POSSIBLE TO MEET THIS REQUEST, THE US REP SAID THAT WE WOULD BE PLEASED WITH WHATEVER STEPS THE FRG, IN THE EXERCISE OF ITS GOOD JUDGMENT, MIGHT TAKE TO GIVE OBERLE A MORE APPARENT ROLE. HE INQUIRED, FOR EXAMPLE, WHETHER GERMAN PROCEEDINGS PROVIDE FOR THE PROSECUTION TO MAKE A FORMAL OPENING STATEMENT AS IS DONE IN THE US AND ASKED WHETHER OBERLE MIGHT BE GIVEN THIS DUTY OR MIGHT CONFIDENTIAL

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MAKE A FORMAL APPEARANCE TO INTRODUCE THE OTHER LAWYERS. VON BRAUNMUEHL REPLIED THAT HE WOULD INQUIRE ABOUT POSSIBLE STEPS. HE NOTED "POTENTIAL" PROBLEMS, HOWEVER, SUCH AS THE FACT THAT (IN GERMAN PROCEEDINGS) THE OPENING STATEMENT CAN BE INTERRUPTED BY QUESTIONS FROM THE BENCH AND THAT OBERLE MIGHT NOT BE ABLE TO ANSWER THESE. HE ALSO SAID THAT OTHER LAWYERS MIGHT BE DISPLEASED BY THE ARTIFICIAL ROLE GIVEN OBERLE AND THEIR DISSATISFACTION MIGHT BE MADE PUBLIC, WITH THE UNWELCOME RESULT THAT THE PRESS WOULD PUBLICIZE THE ALLIED ROLE. HE REITERATED HIS EARLIER ARGUMENT THAT THE FRG DID NOT WANT THE TRIAL TO APPEAR TO BE A FARCE.

7. VON BRAUNMUEHL AGREED TO RECOMMEND TO THE WISCHNEWSKI GROUP, WHICH IS MEETING THIS AFTERNOON, THAT THE JUSTICE MINISTRY SEEK TO TAKE SOME STEPS TO GIVE OBERLE A ROLE. RICHARD CONCLUDED BY SAYING THAT, IN ORDER TO AVOID FUTURE CONFUSION ABOUT WHAT IS AGREED TO, THE FRENCH WOULD LIKE THE FRG ASSURANCES ON THE VARIOUS STEPS TO BE TAKEN (I.E., THE FOUR UK POINTS) TO BE IN WRITING.

8. DISCUSSION THEN TURNED TO THE DRAFT ALLIED STATEMENT (REF E). RICHARD, ON THE BASIS OF THE TELEPHONE CALL FROM PLAISANT, SAID THAT WHILE HIS FORMAL INSTRUCTIONS STILL CALLED FOR A REFERENCE TO BK/O(51) 63 (REF B), PARIS MIGHT BE ABLE TO ACCEPT THE US AND UK POSITION. HE SAID THAT PARIS INSISTED THAT

THE FORM OF THE ALLIED STATEMENT SHOULD BE A PRESS STATEMENT GIVEN OUT FORMALLY BY THE ALLIES IN BERLIN, TO WHICH THE US AND UK REPS SAID THEIR CAPITALS WERE PREPARED TO AGREE.

9. RICHARD ALSO MADE PARIS' REQUEST (REF A) FOR DELETION OF THE REFERENCE TO FEDERAL LEGISLATION IN

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O P 171821Z AUG 77
FM AMEMBASSY BONN
TO SECSTATE WASHDC IMMEDIATE 0730
AMEMBASSY PARIS PRIORITY
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THE ALLIED STATEMENT. THE US AND UK REPS NOTED THAT THE LANGUAGE HAD BEEN VERY CAREFULLY CONSIDERED AND WAS DERIVED FROM BK/O(50)75 OF AUGUST 29, 1950, APPROVING THE WEST BERLIN CONSTITUTION, WHICH READS IN RELEVANT PART:
"FURTHERMORE, THE PROVISIONS OF ANY FEDERAL LAW SHALL APPLY TO BERLIN ONLY AFTER THEY HAVE BEEN VOTED UPON

BY THE HOUSE OF REPRESENTATIVES AND PASSED AS A BERLIN LAW." (COMMENT: THE FRG DOES NOT LIKE THE USE OF THE TERM "BERLIN LAW" AND WE WERE ABLE TO PERSUADE THE FRG REP AT THE JULY 28 MEETING ONLY BY SHOWING HIM BK/O(50)75. AS A COMPROMISE, ALLIED REPS AGREED TO INCLUDE THE REFERENCE TO "FEDERAL LEGISLATION," WHICH ALSO TRACKS THE LETTER.) RICHARD SAID THAT HE WAS NOT AWARE OF THE 1950 BK/O AND THOUGHT HE COULD PERSUADE PARIS ON THIS POINT.

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10. IN CONCLUSION, RICHARD SAID THAT HE THOUGHT THAT IF WE CAN REACH FINAL AGREEMENT ON THE OTHER POINTS IN WHICH PARIS IS INTERESTED (I.E., FRG AGREEMENT TO THE FOUR UK PROPOSALS), PARIS WILL AGREE TO THE FRG AND ALLIED PRESS STATEMENTS. EYERS SAID THAT LONDON URGED THE PROMPT ISSUANCE OF THESE STATEMENTS.

11. COMMENT: WE APPEAR TO BE NEARING AGREEMENT WITH THE FRENCH AND EVEN THE FRG REP EXPRESSED TO THE US REP CONFIDENCE THAT MATTERS CAN BE SETTLED TO EVERYONE'S MUTUAL SATISFACTION. WE ARE PARTICULARLY GRATEFUL FOR EMBASSY PARIS' EFFORTS TO CLEAR UP SOME OF THE MISUNDERSTANDING WHICH APPEARS TO HAVE OCCURRED IN PART BECAUSE OF FRENCH EMBASSY BONN'S REPORTING. RICHARD IS A DILIGENT AND INTELLIGENT COLLEAGUE BUT HE IS A RECENT ARRIVAL ON THE SCENE AND IS OVERBURDENED TO BOOT AS THE SOLE FRENCH REPRESENTATIVE AT THE MOMENT. HIS REPORTING, WHICH IS COMPLICATED BY HAVING TO TRANSLATE ALL BONN GROUP DRAFTS INTO FRENCH MAY THUS HAVE BEEN INSUFFICIENTLY DETAILED.

12. ACTION REQUESTED: APPROVAL OF FRG PROPOSED PRESS STATEMENT (REF F), AS AMENDED IN PARAGRAPH 4 SUPRA. STOESEL

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Message Attributes

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Disposition Approved on Date:
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SAS ID: 1581808
Secure: OPEN
Status: NATIVE
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TAGS: PGOV, GE, BQG, (LORENZ, PETER)
To: STATE PARIS
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/ae346b59-c288-dd11-92da-001cc4696bcc
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